

FILED

SEP 24 2012

PATRICK E. DUFFY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

KEVIN MARK TAYLOR,)	CV 12-16-H-DLC-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
LEROY KIRKEGARD, ROSS)	
SWANSON, and MAJOR WOODS,)	
)	
Defendants.)	
)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation on July 30, 2012, and recommended granting Defendants' motion to dismiss for failure to exhaust administrative remedies. Plaintiff did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v.

Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

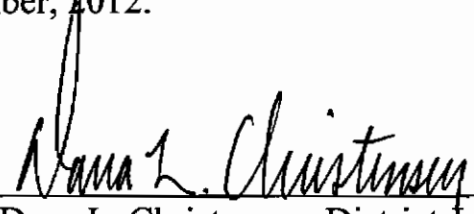
Taylor alleges the prison librarian removed all Wiccan religious publications from the library leaving all Christian, Judaism, Odinism, Islamism, and other religious books on the shelves, and that Defendants Kirkegard, Swanson, and Wood approved and implemented this policy. Judge Strong found there is no evidence that Taylor filed any grievance regarding the issue presented in this lawsuit and did not properly exhaust the available administrative remedies for his claims. After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (doc. 13) are adopted in full. Defendants’ Motion (doc. 10) is GRANTED and this case is DISMISSED WITHOUT PREJUDICE.

The Clerk of Court is directed to enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure and close this case.

IT IS FURTHER ORDERED that the docket shall reflect that the Court certifies pursuant to Fed.R.App.P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith.

DATED this 23rd day of September, 2012.



Dana L. Christensen, District Judge
United States District Court